

AMENDED IN ASSEMBLY APRIL 7, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1386

Introduced by Assembly Member Goldsmith

February 28, 1997

An act to ~~amend Section 3301 of the Government Code, relating to public employees;~~ add Section 668.5 to the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, as amended, Goldsmith. ~~Public Safety Officer Procedural Bill of Rights; public safety officer Crimes: illegal aliens.~~

Existing law imposes enhanced punishment for prior felony convictions.

This bill would enhance the punishment for a felony committed by an illegal alien who has previously been deported under federal law, by requiring imposition of an additional 10-year term of imprisonment where the crime is a felony, or an additional indeterminate term of 25 years to life where the felony is a violent felony. By establishing a new sentence enhancement, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law defines the term public safety officer for the purposes of the Public Safety Officers Procedural Bill of Rights.~~

~~This bill would revise the definition to include qualified persons deputized or appointed as reserve or auxiliary sheriffs or police officers of various local government agencies, which reserve officers are assigned to the prevention and detection of crime and the general enforcement of the laws of this state.~~

~~Since these provisions would apply to local government agencies, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 3301 of the Government Code is~~
 2 *SECTION 1. Section 668.5 is added to the Penal Code,*
 3 *to read:*
 4 *668.5. (a) A person who, after having been excluded*
 5 *or deported within the meaning of Section 1326 of Title*
 6 *8 of the United States Code, enters the United States in*
 7 *violation of that section, and subsequently commits a*
 8 *felony in this state, shall, upon conviction of that felony,*
 9 *be punished in addition and consecutive to any other*
 10 *penalty provided by law, by an additional term of 10 years*

1 imprisonment in the state prison except as provided in
2 subdivision (b).

3 (b) If a person described in subdivision (a) is
4 convicted of a violent felony, as defined in subdivision (c)
5 of Section 667.5, the additional consecutive term of
6 imprisonment shall be an indeterminate term of 25 years
7 to life.

8 SEC. 2. No reimbursement is required by this act
9 pursuant to Section 6 of Article XIII B of the California
10 Constitution because the only costs that may be incurred
11 by a local agency or school district will be incurred
12 because this act creates a new crime or infraction,
13 eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section
15 17556 of the Government Code, or changes the definition
16 of a crime within the meaning of Section 6 of Article
17 XIII B of the California Constitution.

18 Notwithstanding Section 17580 of the Government
19 Code, unless otherwise specified, the provisions of this act
20 shall become operative on the same date that the act
21 takes effect pursuant to the California Constitution.

22 amended to read:

23 ~~3301. For purposes of this chapter, the term public~~
24 ~~safety officer means all peace officers specified in Sections~~
25 ~~830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except~~
26 ~~subdivision (e), 830.34, 830.35, except subdivision (e),~~
27 ~~830.36, 830.37, 830.38, 830.4, 830.5, and 830.6 of the Penal~~
28 ~~Code.~~

29 ~~The Legislature hereby finds and declares that the~~
30 ~~rights and protections provided to peace officers under~~
31 ~~this chapter constitute a matter of statewide concern. The~~
32 ~~Legislature further finds and declares that effective law~~
33 ~~enforcement depends upon the maintenance of stable~~
34 ~~employer-employee relations, between public safety~~
35 ~~employees and their employers. In order to assure that~~
36 ~~stable relations are continued throughout the state and to~~
37 ~~further assure that effective services are provided to all~~
38 ~~people of the state, it is necessary that this chapter be~~
39 ~~applicable to all public safety officers, as defined in this~~
40 ~~section, wherever situated within the state.~~

1 ~~SEC. 2. Notwithstanding Section 17610 of the~~
2 ~~Government Code, if the Commission on State Mandates~~
3 ~~determines that this act contains costs mandated by the~~
4 ~~state, reimbursement to local agencies and school~~
5 ~~districts for those costs shall be made pursuant to Part 7~~
6 ~~(commencing with Section 17500) of Division 4 of Title~~
7 ~~2 of the Government Code. If the statewide cost of the~~
8 ~~claim for reimbursement does not exceed one million~~
9 ~~dollars (\$1,000,000), reimbursement shall be made from~~
10 ~~the State Mandates Claims Fund.~~

11 ~~Notwithstanding Section 17580 of the Government~~
12 ~~Code, unless otherwise specified, the provisions of this act~~
13 ~~shall become operative on the same date that the act~~
14 ~~takes effect pursuant to the California Constitution.~~

